

**PLANNING AND ZONING COMMISSION
REGULAR MEETING - MINUTES
NOVEMBER 22, 2016 – 7:30PM
GOSHEN TOWN HALL CONFERENCE ROOM – 42 NORTH STREET**

PRESENT: Chairman Don Wilkes, Mark Harris, Russ Hurley, Lu-Ann Zbinden; Alternates Thomas Carey and Laura Lemieux; Town Planner and Zoning Enforcement Officer Martin Connor, AICP.
EXCUSED: Cynthia Barrett.
ABSENT: Alternate Rick Boger-Hawkins.

1. CALL TO ORDER AND DESIGNATION OF ALTERNATES.

Chairman Don Wilkes called the meeting to order at 7:30PM. All regular members present were seated for the evening. Alternate Thomas Carey was seated for Cynthia Barrett.

2. READING OF THE MINUTES:

A. October 25, 2016 regular meeting.

Ms. Zbinden noted that the time of the meeting was incorrectly stated as 7:00PM.

MOTION Ms. Zbinden, second Mr. Harris, to approve the minutes of the October 25, 2016 regular meeting as corrected; unanimously approved.

3. PUBLIC HEARINGS:

No business was discussed.

4. OLD BUSINESS:

No business was discussed.

5. NEW BUSINESS:

A. Discussion with Lucy Hussman, Town of Goshen Tax Assessor, Regarding 2016 Plan of Conservation & Development PA-490 Open Space Eligibility Recommendations (Found in Section 4 – “2015 Goshen Open Space Plan” – page 11).

Ms. Hussman addressed the Commission regarding the application of PA-490, a special use assessment, whereby residents who make application can receive a special reduced assessment on property that is classified as open space. If the property is sold or there is a change of use on the land, then the classification as open space, and the reduction, ceases; penalties may also apply.

Ms. Hussman explained that she was charged with implementing PA-490 for the Town, and since the recently adopted 2016 Plan of Conservation and Development (POCD) had made a change to the eligibility for this program, she was requesting clarification as to how to implement the change. She explained that the previous Open Space Plan for the Town stated that: “Two or more lots sharing a common boundary may be considered as a single lot for the purpose of qualification as ‘open space’ provided: (1) Not more than one of the lots is developed, and (2) The lots are under identical common ownership.” However, when the 2015 Open Space Plan, with its recommended revisions to PA-490 eligibility, was accepted and ultimately incorporated into the 2016 Plan of Conservation & Development, this section was not included. Ms. Hussman questioned whether this section was deliberately omitted or whether it was merely an oversight.

Mr. Harris questioned whether anyone was potentially affected by this, and Ms. Hussman responded affirmatively stating that there are properties around Woodridge Lake that could potentially qualify under the questionable section.

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Mr. Connor stated that the Commission included this suggested at the recommendation of the Conservation Commission, and it was his impression that the Conservation Commission wished to streamline the eligibility requirements such that only those who were truly conserving otherwise buildable land received the benefit of PA-490. Mr. Harris stated that he did not think that the Commission should provide an incentive for keeping two lots separate, since they could then be sold separately. Ms. Zbinden noted that the Zoning Regulations had a merger clause; however, Mr. Connor explained that the clause only pertains if the lots are not the minimum required lot size in the zone.

The Commission discussed with Ms. Hussman the number of residents participating in the PA-490 special assessment, as well as the potential financial impact of eliminating the section Ms. Hussman referenced. She explained that she had discussed this issue with the Town Attorney and had been advised that those residents in the program already are effectively grandfathered; any change under the new language in the 2016 POCD would only apply to new enrollees. The Commission then discussed whether input from the Conservation Commission might be required; however, both Ms. Zbinden and Mr. Connor stated that it had appeared as if the Conservation Commission had been interested in tightening up the eligibility for PA-490.

MOTION Mr. Harris, second Mr. Hurley, to determine that, with regard to eligibility for PA-490 special assessment status, the intent of the Town of Goshen Planning and Zoning Commission in its adoption of the 2015 Open Space Plan and 2016 Plan of Conservation and Development was to eliminate the following provision: "Two or more lots sharing a common boundary may be considered as a single lot for the purpose of qualification as 'open space' provided: (1) Not more than one of the lots is developed, and (2) The lots are under identical common ownership."

The motion was unanimously approved.

B. Preliminary Discussion with Amy Tobin Regarding Expansion of the Center Business (CB) Zone on North Street.

Amy Tobin addressed the Commission and distributed copies of an appraisal of her property. Ms. Tobin explained that she has a barn on her property that is approved for use with a home occupation; however, the Zoning Regulations require the business to be operated the resident of the primary dwelling unit on the property. She said that she would like to be able to rent the barn for commercial purposes to another person who would not live onsite; however, this is not permitted under the Regulations. Ms. Tobin stated that her inability to have this option has adversely affected the value of her property. Mr. Connor noted that Ms. Tobin could seek a variance from the Zoning Board of Appeals for just her own property; however, financial hardship is not a qualifying reason to grant a variance. He stated that he was under the impression Ms. Tobin was seeking a discussion regarding a possible zone change along North Street.

The Commission asked for information regarding other businesses near the traffic circle. Mr. Connor explained that the Town did not implement zoning regulations until 1988. Nodine's and the Bank were both pre-existing nonconforming uses. The kitchen business at the traffic circle had been pre-existing nonconforming; however, the owner applied for and obtained re-zoning of the property. The playhouse was also pre-existing nonconforming. Mr. Connor noted that the Commission had adopted very lenient regulations for pre-existing nonconforming properties, as there is a vehicle for their expansions and changes of use. As a result, Mr. Connor stated that there has not been a great deal of pressure to change the zoning until very recently.

Mr. Connor explained that it can be easier to get business loans for a business in a Center Business Zone than if it is a pre-existing nonconforming use. Ms. Tobin explained that the Hunt property, which has been available for sale for a long time, had recently been relisted as available for commercial use and that had generated increased interest from prospective buyers. Mr. Connor noted that the property was in fact not approved for commercial use; it was still technically zoned residential.

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Mr. Connor stated that he had spoken with the Hunt family and suggested they attend this meeting; however, they were not present. Ms. Tobin stated that she had also invited them and several other similarly situated residents to attend; she said that while many were not opposed, they did not appear to be as interested in actively pursuing this as she was.

Mr. Carey questioned whether an overlay zone regulation might be of use. Mr. Connor stated that in his opinion, the Commission may as well just re-zone the subject properties. Mr. Carey questioned whether an overlay zone offered more flexibility. Mr. Connor explained that an overlay zone is usually used for larger properties; however, it could possibly work in this situation. He noted that those properties currently zoned Center Business actually are operating as businesses, which is not entirely the case in this situation. Mr. Carey stated that it could be beneficial to promote mixed use of properties in this area of the Town. Mr. Connor explained that Ms. Tobin could apply to re-zone her own property, and she could also work with her neighbors to see if they would also be interested in re-zoning their properties. He noted that the Planning & Zoning Commission could also initiate a zone change of the subject properties; however, he did not recommend doing so if the property owners affected were not interested.

Mr. Connor explained that the benefit of having home-based businesses was that they were owner-occupied, and as such in his experience it was easier to ensure regulations were followed. He stated that it could often be more difficult to ensure renters adhere to the Zoning Regulations. Mr. Connor also noted that should the Commission only opt to consider re-zoning one small property such as Ms. Tobin's, it could potentially raise a concern of spot-zoning should someone be against the application. Ms. Tobin noted that her property touched the back of the Village Marketplace property. Mr. Connor stated that, in his opinion, it would be helpful if more properties in this area were interested in a similar zone change, preferably as far up the street as to Goshen Center School.

Mr. Connor noted that, even if the zone change was adopted, under the Center Business Zone regulations, a property owner wishing to open a business would still require a special permit. He noted an inquiry he had received regarding the Hunt property, whereby more than one business would be located on the property; he explained that could only occur in the Center Business Zone. Mr. Connor offered to write a letter to property owners along the east side of North Street up to the school in order to gauge interest in a possible zone change.

MOTION Mr. Harris, second Ms. Zbinden, to direct the Town Planner to contact property owners along the east side of North Street regarding their interest in a possible zone change from residential to Center Business; unanimously approved.

6. ZONING ENFORCEMENT OFFICER'S REPORT:

Mr. Connor reviewed with the Commission his report regarding his activities over the past month.

MOTION Mr. Hurley, second Mr. Harris, to accept the Zoning Enforcement Officer's Report dated November 22, 2016; unanimously approved.

7. CORRESPONDENCE.

No business was discussed.

8. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.

A. Discussion Regarding Northwest Hills Council of Governments Regional Plan Survey.

Ms. Zbinden explained that she had shared with members of the Goshen Land Trust the results of the survey the Commission had taken with Jocelyn Ayer at their previous meeting.

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Mr. Connor suggested that Ms. Zbinden direct the members to the survey located on the Northwest Hills Council of Governments' website: <http://northwesthillscog.org/>

B. Update on Tyler Lake Rake the Lake and Herbicide Application.

Mr. Harris updated members of the Commission regarding activities ongoing at Tyler Lake. He stated that the Lake Association had applied in January 2016 for a permit to apply herbicide to 10 acres of the lake in an effort to curb the overgrowth of invasive Eurasian milfoil; that permit was obtained in September 2016. Mr. Harris stated that the lake was drawn down 3 feet, the gate was closed, and the herbicide was then applied. He explained that the gate would remain closed until the Fall of 2017, thereby preventing herbicide from going downstream. Mr. Harris explained that the Lake Association had hired a limnologist to oversee this plan and the application was done by a professional. This was all done at the expense of the Lake Association; no Town funds were used.

Mr. Harris explained that prior to the herbicide application, the Association sponsored a "Rake the Lake" event, during which 60 cubic yards of weeds were removed from the lake. This event was a great success and opportunity for community-building, and it will be held again. However, Tyler Lake does require additional efforts such as the herbicide application in order to curtail the expansion of invasive weeds.

Mr. Harris also noted that the Tyler Lake Protective Association had been established as a 501(c)(3) non-profit organization, and all rules and regulations pertinent to an herbicide application in the State of Connecticut had been followed.

9. ADJOURNMENT:

MOTION Ms. Zbinden, second Mr. Hurley, to adjourn the meeting at 8:35PM; unanimously approved.

Respectfully submitted,

**Stacey M. Sefcik
Recording Secretary**